

FILED

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2014 AUG -8 P 2:19

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

ARLINGTON COMMUNITY
FEDERAL CREDIT UNION

Plaintiff,

vs.

BERKLEY REGIONAL INSURANCE
COMPANY

Defendant.

Case No.

1114 CV 1022
TSE/TCB

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and without waiving any defenses or objections, Defendant Berkley Regional Insurance Company ("Berkley"), by undersigned counsel, removes this action from the Circuit Court for the County of Arlington, Virginia, to the United States District Court for the Eastern District of Virginia, Alexandria Division. In support of this Notice of Removal, Berkley states as follows:

Original Filing

1. The Plaintiff, Arlington Community Federal Credit Union ("Arlington") filed a complaint on June 27, 2014 in the Circuit Court for the County of Arlington, Virginia. Berkley was served on July 9, 2014. Pursuant to 28 U.S.C. § 1446, a copy of the all process, pleadings and exhibits, and orders served upon this defendant is attached hereto as Exhibit A.

2. The Complaint purports to seek reimbursement for insurance benefits, pursuant to a fidelity bond issued by Berkley, which Arlington asserts was required by federal regulations. Compl. ¶ 5. Arlington alleges that it sustained losses in connection with wiring funds pursuant to a fraudulent wire request. *Id.* ¶¶ 7-10. Arlington further asserts that it sought coverage under

the terms of the bond from Berkley for the loss sustained, but coverage was improperly denied. *Id.* ¶¶ 10-11. Berkley disputes that it is obligated to provide coverage and states that the Arlington's claim lacks merit.

Timely Removal

3. Pursuant to 28 U.S.C. Section 1446(b), a "notice of removal ... shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based"

4. Berkley was served with the Complaint on July 9, 2014. Thus, removal is timely under 28 U.S.C. § 1446(b), since this Notice of Removal has been filed within 30 days after receipt by Berkley.

Subject Matter Jurisdiction

5. Pursuant to 28 U.S.C. § 1332(a), "[t]he district courts shall have original jurisdiction all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different states."

6. At the time the Complaint was filed and at the time of the removal, Berkley was and continues to be a Delaware corporation with its principal place of business in Connecticut.

7. At the time the Complaint was filed and at the time of the removal, Arlington was and continues to be a community credit union organized under the Federal Credit Union Act, 12 U.S.C. §§ 1651-1795k, its principal place of business is in Virginia, and is a citizen of Virginia. *See* Compl. ¶¶ 3-4. Therefore, the parties are diverse.

8. The amount in controversy is \$153,893.00, which exceeds the minimum amount in controversy requirement. *See* Compl. ¶18.

9. In light of the foregoing, this Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a).

10. Accordingly, this Court has jurisdiction over this matter.

Grounds for Removal

11. Under 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

14. As there is original jurisdiction pursuant to 28 U.S.C. § 1332(a), this matter is removable under 28 U.S.C. § 1441(a).

15. Because this matter is pending in the Circuit Court for Arlington County, the Eastern District of Virginia (Alexandria Division) is the appropriate court to which this matter may be removed as it the “district and division embracing the place where [the state court] action is pending.” 28 U.S.C. § 1441(a).

Preservation of Defenses

16. By this Notice of Removal, Berkley does not waive any defenses or objections that it may have as to service, venue, personal jurisdiction or any other defenses or objections it may have in this action. Berkley makes no admission as to any facts, law, or liability, and expressly reserves all defenses available to it.

Notice to Adverse Parties and State Court

17. Promptly upon filing the Notice of Removal in this Court, a true and accurate copy of this Notice of Removal is being filed with the Clerk of the Circuit Court for the County

of Arlington, and a true and accurate copy of this Notice of Removal is also being sent to Arlington, through Arlington's counsel, in accordance with 28 U.S.C. § 1446(d).

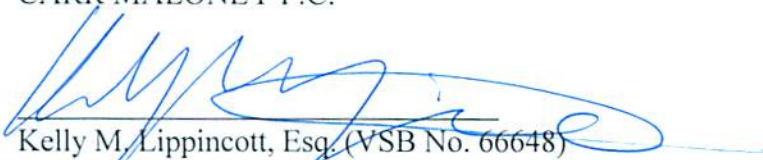
WHEREFORE, Defendant Berkley Regional Insurance Company respectfully requests that the instant action be removed from the Circuit Court for the County of Arlington, Virginia, where it currently pending, to the United States District Court for the Eastern District of Virginia, Alexandria Division.

Respectfully submitted,

BERKLEY REGIONAL INSURANCE COMPANY
By Counsel

CARR MALONEY P.C.

By:

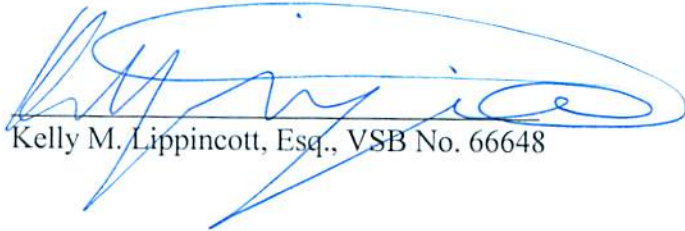


Kelly M. Lippincott, Esq. (VSB No. 66648)
Matthew D. Berkowitz, Esq. (VSB No. 72728)
2000 L Street, N.W.
Suite 450
Washington, D.C. 20036
(202) 310-5500 (Telephone)
(202) 310-5555 (Facsimile)
kml@carrmaloney.com
mb@carrmaloney.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Notice of Removal* was served electronically and via U.S. mail on August 8, 2014, to the following:

R. Johan Conrod, Esq.
Lauren Tellent Rogers, Esq.
Kaufman & Canoles, P.C.
150 West Main Street, Suite 2100
Norfolk, VA 23510
rjconrod@kaufcan.com
ltrogers@kaufcan.com
Counsel for Arlington Community Federal Credit Union



Kelly M. Lippincott, Esq., VSB No. 66648